

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

KEVIN SHEILS,

Plaintiff,

**9:06-CV-482
(GLS|RFT)**

v.

**R.J. MINOGUE, Commissioner's
Hearing Officer; P. ANO, Tier Hearing
Assistant; D. SELSKY, Director,
Special Housing,**

Defendants.

APPEARANCES:

OF COUNSEL:

FOR THE PLAINTIFF:

Kevin Sheils
Pro Se
99-A-5444
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902-0500

FOR THE DEFENDANTS:

HON. ANDREW M. CUOMO
New York Attorney General
The Capitol
Albany, NY 12224

CHARLES J. QUACKENBUSH
Assistant Attorney General

**Gary L. Sharpe
U.S. District Judge**

MEMORANDUM-DECISION AND ORDER

The above-captioned matter comes to this court following a Report-Recommendation and Order (“R&R”) by Magistrate Judge Randolph F. Treece, filed August 21, 2008. (Dkt. No. 34.) The R&R¹ recommended conditionally dismissing the complaint. Judge Treece specifically recommended that Sheils be required to inform the court within thirty days, from the adoption of the order, whether he intended to pursue his conditions of confinement claims and forgo for all time his claims concerning the duration of his confinement. On January 6, 2009, Sheils responded and informed the court that he desired to “relinquish all future challenges regarding the [twelve] months loss of good time credits... to allow [the] complaint to proceed forward.” (See Sheils Resp. p. 6; Dkt. No. 40.) Accordingly, the Report-Recommendation is adopted in its entirety, and the complaint survives in regards to his conditions of confinement.

WHEREFORE, for the foregoing reasons, it is hereby

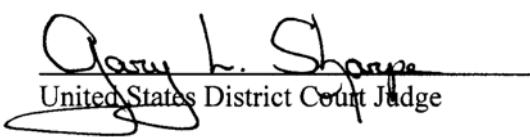
ORDERED that the Report-Recommendation of Magistrate Judge Treece filed August 21, 2008, is adopted in its entirety; and it is further

¹The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

ORDERED that the Clerk provide copies of this Order to all parties.

IT IS SO ORDERED.

Albany, New York
March 25, 2009



United States District Court Judge